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CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1832

Introduced by Assembly Member Speier

February 24, 1995

An act to amend Sections 3750, 3767, 5283, 7571, 7572, and 7644 of, to add Sections 3751.5, 7573, and 7577 to, and to repeal and add Sections 7574, 7575, and 7576 of, the Family Code, to amend Section 22825.14 of the Government Code, to amend Sections 1357, 1357.50, 1374.3, and 102425 of the Health and Safety Code, to amend Sections 10119, 10121.6, 10198.6, 10702.1, 10711, 10719.1, 10731.2, and 11516.1 of the Insurance Code, to amend Section 2803.5 of the Labor Code, ~~to add Section 270i to the Penal Code~~, and to amend Sections 11350.3, 11350.4, 11476, 11478.8, 15200.1, 15200.2, 15200.3, 15200.7, 15200.8, 15200.85, 15200.9, and 15200.95 of, to add Sections 14124.94 and 15200.91 to, and to repeal Section 14124.93 of, the Welfare and Institutions Code, relating to family law, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1832, as amended, Speier. Family law: support: paternity.

(1) Existing law authorizes the court to require health care coverage payments in child support proceedings. Existing law requires the district attorney, the State Department of Health Services, or a party with custody of a child to enforce an outstanding support order that requires that health care coverage be provided to the child, and requires support obligors and their employers and health care insurers, as defined, to comply with these provisions, in the case of a child eligible for federal medicaid services.

This bill would require support obligors and their employers and health care insurers to comply with certain provisions relative to a support order requiring health care coverage to be provided to any child. These children would be included within the health care coverage provided by employers or other providers, as specified.

(2) Existing law also requires employers and labor organizations to cooperate with and provide relevant employment and income information, upon request, to a district attorney enforcing child support obligations. An employer or labor organization may be assessed a civil penalty of a maximum of \$500 for failure to provide that information within 30 days of receiving a request, as specified. The bill would increase the maximum civil penalties that may be imposed upon an employer or labor organization for failing to provide relevant employment information to the district attorney regarding the enforcement of a support obligation, as specified.

(3) Existing law specifies procedures for the establishment of paternity by voluntary declaration. Under these provisions, the child of a woman and a man executing a declaration of paternity is conclusively presumed to be the man's child. This presumption may be rebutted by way of blood or genetic tests within 3 years of the date of execution of the declaration, as provided. Existing law specifies the contents of the declaration, and requires each district attorney to pay \$10 to

a hospital, clinic, or other place of live birth for each declaration filed.

This bill would revise and recast these provisions and would, among other things, authorize prenatal clinics to file voluntary declarations of paternity; make special provision for minors who sign a declaration; provide that a completed voluntary declaration of paternity that has been filed with the State Office of Vital Records and Statistics establishes the paternity of the child and has the same force and effect as a judgment for paternity issued by a court of competent jurisdiction; revise the contents of the declaration; provide a 60-day period in which a parent may rescind the voluntary declaration of paternity, except as provided; authorize a court to set aside a voluntary declaration of paternity under certain conditions; and make special provision for declarations signed on or before December 31, 1996. By requiring increased duties of local officials, the bill would impose a state-mandated local program.

(3)

~~This bill would provide that a person who aids an obligor in the nonpayment of child support is guilty of a misdemeanor and would require that any fine imposed for a violation of this provision be paid in whole or in part to the obligee. By creating a new crime, the bill would impose a state-mandated local program.~~

(6) Existing law, operative July 1, 1997, appropriates federal incentive funds out of any money in the State Treasury not otherwise appropriated, from which the State Department of Social Services shall make payments to each county (a) on any support payments collected or distributed, or both, and (b) on any interstate support collections collected or distributed, or both, and provides for the payment to counties of state incentive funds.

This bill would change the operative date of these provisions to July 1, 1998.

(7) Existing law, operative July 1, 1997, appropriates out of any money in the General Fund not otherwise appropriated, amounts from which the State Department of Social Services shall make federal incentive payments to each county on nonfederally funded foster care support payments collected or distributed, and provides for the payment to counties of state incentive funds.

This bill would change the operative date of this provision to July 1, 1998.

(8) Existing law, operative July 1, 1997, annually appropriates from the General Fund to the State Department of Social Services beginning in fiscal year 1997–98, a sum equal to 50% of the state's share of increased AFDC child support collections, as specified.

This bill would change the operative date of this provision to July 1, 1998.

(9) Existing law, operative until June 30, 1997, requires the State Department of Social Services to establish a performance-based incentive system which will provide federal and state incentive funds to counties based on standards of performance in the child support program, as provided. Existing law, operative until June 30, 1997, appropriates from the State Treasury sufficient funds, including federal incentives, from which the department shall

pay (a) to each county a base rate of 10% on any support collections distributed, and (b) to certain counties a performance rate, and requires the department to pay to certain counties a specified compliance incentive rate.

This bill would extend the operative date of these provisions to June 30, 1998.

(10) Existing law, operative until June 30, 1997, provides for county and state responsibility for each counties' share of administrative expenditures for administering the child support program, and revises these provisions, operative July 1, 1997.

This bill would revise these operative dates to June 30, 1998, and July 1, 1998, respectively.

~~(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by

the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3750 of the Family Code is
2 amended to read:

3 3750. “Health insurance coverage” as used in this
4 article includes all of the following:

5 (a) Vision care and dental care coverage whether the
6 vision care or dental care coverage is part of existing
7 health insurance coverage or is issued as a separate policy
8 or plan.

9 (b) Provision for the delivery of health care services by
10 a fee for service, health maintenance organization,
11 preferred provider organization, or any other type of
12 health care delivery system under which medical services
13 could be provided to a dependent child of an absent
14 parent.

15 SEC. 2. Section 3751.5 is added to the Family Code, to
16 read:

17 3751.5. (a) Notwithstanding any other provision of
18 law, an employer or insurer shall not deny enrollment of
19 a child under the health insurance coverage of a child’s
20 parent on any of the following grounds:

21 (1) The child was born out of wedlock.

22 (2) The child is not claimed as a dependent on the
23 parent’s federal income tax return.

24 (3) The child does not reside with the parent or in the
25 insurer’s service area.

26 (b) Notwithstanding any other provision of law, in any
27 case in which a parent is required by a court or
28 administrative order to provide health insurance
29 coverage for a child and the parent is eligible for family
30 health coverage through an employer doing business in
31 the state or an insurer, the employer or insurer shall do
32 all of the following, as applicable:

(1) Permit the parent to enroll under health insurance coverage any child who is otherwise eligible to enroll for that coverage, without regard to any enrollment period restrictions.

(2) If the parent is enrolled in health insurance coverage but fails to apply to obtain coverage of the child, enroll that child under the health coverage upon presentation of the court order or request by the district attorney, the other parent or person having custody of the child, or the Medi-Cal program.

(3) The employer or insurer shall not disenroll or eliminate coverage of a child unless either of the following applies:

(A) The employer has eliminated family health insurance coverage for all of the employer's employees.

(B) The employer or insurer is provided with satisfactory written evidence that either of the following apply:

(i) The court order or administrative order is no longer in effect or is terminated pursuant to Section 3770.

(ii) The child is or will be enrolled in comparable health insurance coverage through another insurer that will take effect not later than the effective date of the child's disenrollment.

(c) For purposes of this section, "insurer" includes every health care service plan, self-insured welfare benefit plan, including those regulated pursuant to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001, et seq.), self-funded employer plan, disability insurer, nonprofit hospital service plan, labor union trust fund, employer, and any other similar plan, insurer, or entity offering a health coverage plan.

(d) For purposes of this section, "person having custody of the child" is defined as a legal guardian, a caregiver who is authorized to enroll the child in school or to authorize medical care for the child pursuant to Section 6550, or a person with whom the child resides.

SEC. 3. Section 3767 of the Family Code is amended to read:

1 3767. The employer or other person providing health
2 insurance shall do all of the following:

3 (a) Notify the applicant for the assignment order of
4 the commencement date of the coverage of the child.

5 (b) Provide evidence of coverage and any information
6 necessary for the child to obtain benefits through the
7 coverage to both parents or the person having custody of
8 the child and to the district attorney when requested by
9 the district attorney.

10 (c) Upon request by the parents or person having
11 custody of the child, provide all forms and other
12 documentation necessary for the purpose of submitting
13 claims to the insurance carrier which the employer or
14 other person providing health insurance usually provides
15 to insureds.

16 (d) Permit the parent or the person having custody of
17 the child, or a provider with the approval of either the
18 parent or the person having custody of the child, to
19 submit claims for covered services on behalf of the child
20 without the approval of the covered parent.

21 (e) Make payments on claims submitted in
22 accordance with subdivision (d) directly to either parent
23 or the person having custody, to the provider, or to the
24 State Department of Health Services.

25 *SEC. 3.5. Section 5283 of the Family Code is amended*
26 *to read:*

27 5283. (a) Upon receipt of a written request from a
28 district attorney enforcing the obligation of parents to
29 support their children pursuant to Section 11475.1 of the
30 Welfare and Institutions Code, every employer shall
31 cooperate with and provide relevant employment and
32 income information, that the employer has in its
33 possession, to the district attorney for the purpose of
34 establishing, modifying, or enforcing the support
35 obligation. No employer shall incur any liability for
36 providing this information to the district attorney.

37 (b) Relevant employment and income information
38 shall include, but not be limited to, all of the following:

39 (1) Whether a named person has or has not been
40 employed by an employer.

1 (2) The full name of the employee or the first and
2 middle initial and last name of the employee.

3 (3) The employee's last known residence address.

4 (4) The employee's date of birth.

5 (5) The employee's social security number.

6 (6) The dates of employment.

7 (7) All earnings paid to the employee and reported as
8 W-2 compensation in the prior tax year and the
9 employee's current basic rate of pay.

10 (8) Whether dependent health insurance coverage is
11 available to the employee through employment.

12 (c) The district attorney shall notify the employer of
13 the district attorney case file number in making a request
14 pursuant to this section. The written request shall include
15 at least three of the following elements regarding the
16 person who is the subject of the inquiry:

17 (1) First and last name and middle initial, if known.

18 (2) Social security number.

19 (3) Driver's license number.

20 (4) Birth date.

21 (5) Last known address.

22 (6) Spouse's name.

23 (d) An employer—~~that~~ *who* fails to provide relevant
24 employment information to the district attorney within
25 30 days of receiving a request pursuant to subdivision (a)
26 may be assessed a civil penalty of a maximum of ~~five~~
27 ~~hundred dollars (\$500)~~ *one thousand dollars (\$1,000)*,
28 plus attorneys' fees and costs. Proceedings to impose the
29 civil penalty shall be commenced by the filing and service
30 of an order to show cause.

31 SEC. 4. Section 7571 of the Family Code is amended
32 to read:

33 7571. (a) On and after January 1, 1995, upon the
34 event of a live birth, prior to an unmarried mother
35 leaving any hospital, clinic, or birthing center that is
36 licensed to provide obstetric services, the person
37 responsible for registering live births under Sections
38 102405 and 102415 of the Health and Safety Code shall
39 provide to the natural mother and shall attempt to
40 provide, at the place of birth, to the man identified by the

1 natural mother as the natural father, a voluntary
2 declaration of paternity together with the written
3 materials described in Section 7572. The person
4 responsible for registering the birth shall file the
5 declaration, if completed, with the birth certificate, and,
6 if requested, shall transmit a copy of the declaration to the
7 district attorney of the county where the birth occurred.
8 A copy of the declaration shall be made available to each
9 of the attesting parents.

10 (b) No health care provider shall be subject to any
11 civil, criminal, or administrative liability for any negligent
12 act or omission relative to the accuracy of the information
13 provided, or for filing the declaration with the
14 appropriate state or local agencies.

15 (c) The district attorney shall pay the sum of ten
16 dollars (\$10) to birthing hospitals and other entities that
17 provide prenatal or birthing services for each completed
18 declaration of paternity that is filed with the State Office
19 of Vital Records and Statistics, provided that the district
20 attorney and the hospital or other entity providing
21 prenatal or birthing services has entered into a written
22 agreement that specifies the terms and conditions for the
23 payment as required by federal law.

24 (d) If the declaration is not registered by the person
25 responsible for registering live births at the hospital,
26 clinic, or place of birth, it may be completed by the
27 attesting parents, notarized, and mailed to the State
28 Office of Vital Records and Statistics at any time after the
29 child's birth.

30 (e) Prenatal clinics may offer prospective parents the
31 opportunity to sign a voluntary declaration of paternity.
32 In order to be paid for their services as provided in
33 subdivision (c), prenatal clinics must ensure that the
34 form is witnessed and forwarded to the State Office of
35 Vital Records and Statistics.

36 (f) Declarations shall be made available without
37 charge at all district attorney offices, local vital statistics
38 offices, courts, and county welfare departments within
39 this state. Staff in these offices shall witness the signatures
40 of parents wishing to sign a voluntary declaration of

1 paternity and shall be responsible for forwarding the
2 signed declaration to the State Office of Vital Records and
3 Statistics.

4 (g) The State Department of Social Services and
5 district attorneys shall publicize the availability of the
6 declarations. The district attorney shall make the
7 declaration, together with the written materials
8 described in subdivision (a) of Section 7572, available
9 upon request to any parent. The district attorney shall
10 also provide qualified staff to answer parents' questions
11 regarding the declaration and the process of establishing
12 paternity.

13 (h) Copies of the declaration filed with the State
14 Office of Vital Records and Statistics shall be made
15 available only to the parents, the child, the district
16 attorney, the county welfare department, the county
17 counsel, and the State Department of Social Services.

18 SEC. 5. Section 7572 of the Family Code is amended
19 to read:

20 7572. (a) The State Department of Social Services, in
21 consultation with the State Department of Health
22 Services, the California Association of Hospitals and
23 Health Systems, and other affected health provider
24 organizations, shall work cooperatively to develop
25 written materials to assist providers and parents in
26 complying with this chapter.

27 (b) The written materials for parents which shall be
28 attached to the form specified in Section 7574 and
29 provided to unmarried parents shall contain the
30 following information:

31 (1) A signed voluntary declaration of paternity that is
32 filed with the State Office of Vital Records and Statistics
33 legally establishes paternity.

34 (2) The legal rights and obligations of both parents and
35 the child that result from the establishment of paternity.

36 (3) An alleged father's constitutional rights to have the
37 issue of paternity decided by a court; to notice of any
38 hearing on the issue of paternity; to have an opportunity
39 to present his case to the court, including his right to
40 present and cross examine witnesses; to have an attorney

1 represent him; and to have an attorney appointed to
2 represent him if he cannot afford one in a paternity action
3 filed by the district attorney.

4 (4) That by signing the voluntary declaration of
5 paternity, the father is voluntarily waiving his
6 constitutional rights.

7 (c) The State Department of Social Services shall, free
8 of charge, make available to hospitals, clinics, and other
9 places of birth any and all informational and training
10 materials for the program under this chapter, as well as
11 the paternity declaration form. The State Department of
12 Social Services shall make training available to every
13 hospital, clinic, and other place of birth no later than
14 October 31, 1994.

15 (d) The State Department of Social Services may
16 adopt regulations, including emergency regulations,
17 necessary to implement this chapter.

18 SEC. 6. Section 7573 is added to the Family Code, to
19 read:

20 7573. Except as provided in Sections 7575, 7576, and
21 7577, a completed voluntary declaration of paternity, as
22 described in Section 7574, that has been filed with the
23 State Office of Vital Records and Statistics shall establish
24 the paternity of a child and shall have the same force and
25 effect as a judgment for paternity issued by a court of
26 competent jurisdiction. The voluntary declaration of
27 paternity shall be recognized as a basis for the
28 establishment of an order for child custody, visitation, or
29 child support.

30 SEC. 7. Section 7574 of the Family Code is repealed.

31 SEC. 8. Section 7574 is added to the Family Code, to
32 read:

33 7574. (a) The voluntary declaration of paternity shall
34 be executed on a form developed by the State
35 Department of Social Services in consultation with the
36 State Department of Health Services, the California
37 Family Support Council, and child support advocacy
38 groups.

39 (b) The form described in subdivision (a) shall
40 contain, at a minimum, the following:

1 (1) The name and the signature of the mother.

2 (2) The name and the signature of the father.

3 (3) The name of the child.

4 (4) The date of birth of the child.

5 (5) A statement by the mother that she has read and
6 understands the written materials described in Section
7 7572, that the man who has signed the voluntary
8 declaration of paternity is the only possible father, and
9 that she consents to the establishment of paternity by
10 signing the voluntary declaration of paternity.

11 (6) A statement by the father that he has read and
12 understands the written materials described in Section
13 7572, that he understands that by signing the voluntary
14 declaration of paternity he is waiving his rights as
15 described in the written materials, that he is the biological
16 father of the child, and that he consents to the
17 establishment of paternity by signing the voluntary
18 declaration of paternity.

19 (7) The name and the signature of the person who
20 witnesses the signing of the declaration by the mother
21 and the father.

22 SEC. 9. Section 7575 of the Family Code is repealed.

23 SEC. 10. Section 7575 is added to the Family Code, to
24 read:

(b) (1) Notwithstanding Section 7573, if the court finds that the conclusions of all of the experts based upon the results of the blood tests performed pursuant to Chapter 2 (commencing with Section 7550) are that the man who signed the voluntary declaration is not the father of the child, the court may set aside the voluntary declaration of paternity.

(2) The notice of motion for blood tests under this section may be filed not later than two years from the date of the child's birth by either the mother or the man who signed the voluntary declaration as the child's father in an action to determine the existence or nonexistence of the father and child relationship pursuant to Section 7630 or in any action to establish an order for child custody, visitation, or child support based upon the voluntary declaration of paternity.

(3) The notice of motion for blood tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for putting the issue of paternity before the court.

(c) (1) Nothing in this chapter shall be construed to prejudice or bar the rights of either parent to file an action or motion to set aside the voluntary declaration of paternity on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure and Chapter 10 (commencing with Section 2120) of Part 1 of Division 6. If the action or motion to set aside the voluntary declaration of paternity is for fraud or perjury, the act must have induced the defrauded parent to sign the voluntary declaration of paternity. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure or Section 2122, the period within which the action or motion to set aside the voluntary declaration of paternity must be filed shall commence on the date that the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.

1 (2) The parent seeking to set aside the voluntary
2 declaration of paternity shall have the burden of proof.

3 (3) Any order for custody, visitation, or child support
4 shall remain in effect until the court determines that the
5 voluntary declaration of paternity should be set aside,
6 subject to the court's power to modify the orders as
7 otherwise provided by law.

8 (4) Nothing in this section is intended to restrict a
9 court from acting as a court of equity.

10 (5) If the voluntary declaration of paternity is set aside
11 pursuant to paragraph (1), the court shall order that the
12 mother, child, and alleged father submit to blood or
13 genetic tests pursuant to Chapter 2 (commencing with
14 Section 7550). If the court finds that the conclusions of all
15 the experts, as disclosed by the evidence based upon the
16 blood or genetic tests, are that the person who executed
17 the voluntary declaration of paternity is not the father of
18 the child, the question of paternity shall be resolved
19 accordingly. If the person who executed the declaration
20 as the father of the child is not excluded as a possible
21 father, the question of paternity shall be resolved as
22 otherwise provided by law. If the person who executed
23 the declaration of paternity is ultimately determined to
24 be the father of the child, any child support that accrued
25 under an order based upon the voluntary declaration of
26 paternity shall remain due and owing.

27 (6) The Judicial Council shall develop the forms and
28 procedures necessary to effectuate this subdivision.

29 SEC. 11. Section 7576 of the Family Code is repealed.

30 SEC. 12. Section 7576 is added to the Family Code to
31 read:

32 7576. The following provisions shall apply for
33 voluntary declarations signed on or before December 31,
34 1996.

35 (a) Except as provided in subdivision (d), the child of
36 a woman and a man executing a declaration of paternity
37 under this chapter is conclusively presumed to be the
38 man's child. The presumption under this section has the
39 same force and effect as the presumption under Section
40 7540.

1 (b) A voluntary declaration of paternity shall be
2 recognized as the basis for the establishment of an order
3 for child custody or support.

4 (c) In any action to rebut the presumption created by
5 this section, a voluntary declaration of paternity shall be
6 admissible as evidence to determine paternity of the
7 child named in the voluntary declaration of paternity.

8 (d) The presumption established by this chapter may
9 be rebutted by any person by requesting blood or genetic
10 tests pursuant to Chapter 2 (commencing with Section
11 7550). The notice of motion for blood or genetic tests
12 pursuant to this section shall be supported by a
13 declaration under oath submitted by the moving party
14 stating the factual basis for placing the issue of paternity
15 before the court. The notice of motion for blood tests shall
16 be made within three years from the date of execution of
17 the declaration by the attesting father, or by the attesting
18 mother, whichever signature is later. The two-year
19 statute of limitations specified in subdivision (b) of
20 Section 7541 is inapplicable for purposes of this section.

21 (e) A presumption under this chapter shall override
22 all statutory presumptions of paternity except a
23 presumption arising under Section 7540 or 7555.

24 SEC. 13. Section 7577 is added to the Family Code to
25 read:

26 7577. (a) Notwithstanding Section 7573, a voluntary
27 declaration of paternity that is signed by a minor parent
28 or minor parents shall not establish paternity until 60 days
29 after both parents have reached the age of 18 years or are
30 emancipated, whichever first occurs.

31 (b) A parent who signs a voluntary declaration of
32 paternity when he or she is a minor may rescind the
33 voluntary declaration of paternity at any time up to 60
34 days after the parent reaches the age of 18 or becomes
35 emancipated whichever first occurs.

36 (c) A voluntary declaration of paternity signed by a
37 minor creates a rebuttable presumption of paternity until
38 the date that it establishes paternity as specified in
39 subdivision (a).

1 (d) A voluntary declaration of paternity signed by a
2 minor shall be admissible as evidence in any civil action
3 to establish paternity of the minor named in the voluntary
4 declaration.

5 (e) A voluntary declaration of paternity that is signed
6 by a minor shall not be admissible as evidence in a
7 criminal prosecution for violation of Section 261.5 of the
8 Penal Code.

9 SEC. 14. Section 7644 of the Family Code is amended
10 to read:

11 7644. (a) Notwithstanding any other law, an action
12 for child custody and support and for other relief as
13 provided in Section 7637 may be filed based upon a
14 voluntary declaration of paternity as provided in Chapter
15 3 (commencing with Section 7570) of Part 2.

16 (b) A copy of the voluntary declaration of paternity
17 shall be filed with the complaint seeking the relief
18 specified in subdivision (a). A copy of the voluntary
19 declaration of paternity shall be served with the
20 complaint on the party against whom the child custody or
21 support order is sought.

22 (c) Except as provided in Section 7576, the voluntary
23 declaration of paternity shall be given the same force and
24 effect as a judgment of paternity entered by a court of
25 competent jurisdiction. The court shall make appropriate
26 orders as specified in Section 7637 based upon the
27 voluntary declaration of paternity unless evidence is
28 presented that the voluntary declaration of paternity has
29 been rescinded by the parties or set aside as provided in
30 Section 7575 of the Family Code.

31 (d) The Judicial Council shall develop the forms and
32 procedures necessary to implement this section.

33 SEC. 15. Section 22825.14 of the Government Code is
34 amended to read:

35 22825.14. Any person or entity subject to the
36 requirements of this chapter shall comply with the
37 standards set forth in Chapter 7 (commencing with
38 Section 3750) of Part 1 of Division 9 of the Family Code
39 and Section 14124.94 of the Welfare and Institutions Code.

1 SEC. 16. Section 1357 of the Health and Safety Code
2 is amended to read:

3 1357. As used in this article:

4 (a) “Dependent” means the spouse or child of an
5 eligible employee, subject to applicable terms of the
6 health care plan contract covering the employee, and
7 includes dependents of guaranteed association members
8 if the association elects to include dependents under its
9 health coverage at the same time it determines its
10 membership composition pursuant to subdivision (o).

11 (b) “Eligible employee” means either of the following:

12 (1) Any permanent employee who is actively engaged
13 on a full-time basis in the conduct of the business of the
14 small employer with a normal workweek of at least 30
15 hours, at the small employer’s regular places of business,
16 who has met any statutorily authorized applicable
17 waiting period requirements. The term includes sole
18 proprietors or partners of a partnership, if they are
19 actively engaged on a full-time basis in the small
20 employer’s business and included as employees under a
21 health care plan contract of a small employer, but does
22 not include employees who work on a part-time,
23 temporary, or substitute basis. It includes any eligible
24 employee as defined in this paragraph who obtains
25 coverage through a guaranteed association. Employees of
26 employers purchasing through a guaranteed association
27 shall be deemed to be eligible employees if they would
28 otherwise meet the definition except for the number of
29 persons employed by the employer.

30 (2) Any member of a guaranteed association as
31 defined in subdivision (o).

32 (c) “In force business” means an existing health
33 benefit plan contract issued by the plan to a small
34 employer.

35 (d) “Late enrollee” means an eligible employee or
36 dependent who has declined enrollment in a health
37 benefit plan offered by a small employer at the time of the
38 initial enrollment period provided under the terms of the
39 health benefit plan and who subsequently requests
40 enrollment in a health benefit plan of that small

1 employer, provided that the initial enrollment period
2 shall be a period of at least 30 days. It also means any
3 member of an association that is a guaranteed association
4 as well as any other person eligible to purchase through
5 the guaranteed association when that person has failed to
6 purchase coverage during the initial enrollment period
7 provided under the terms of the guaranteed association's
8 plan contract and who subsequently requests enrollment
9 in the plan, provided that the initial enrollment period
10 shall be a period of at least 30 days. However, an eligible
11 employee, any other person eligible for coverage through
12 a guaranteed association pursuant to subdivision (o), or
13 dependent shall not be considered a late enrollee if: (1)
14 the individual meets all of the following: (A) he or she was
15 covered under another employer health benefit plan at
16 the time the individual was eligible to enroll; (B) he or
17 she certified at the time of the initial enrollment that
18 coverage under another employer health benefit plan
19 was the reason for declining enrollment, provided that, if
20 the individual was covered under another employer
21 health plan, the individual was given the opportunity to
22 make the certification required by this subdivision and
23 was notified that failure to do so could result in later
24 treatment as a late enrollee; (C) he or she has lost or will
25 lose coverage under another employer health benefit
26 plan as a result of termination of employment of the
27 individual or of a person through whom the individual
28 was covered as a dependent, change in employment
29 status of the individual or of a person through whom the
30 individual was covered as a dependent, termination of
31 the other plan's coverage, cessation of an employer's
32 contribution toward an employee or dependent's
33 coverage, death of the person through whom the
34 individual was covered as a dependent, or divorce; and
35 (D) he or she requests enrollment within 30 days after
36 termination of coverage or employer contribution
37 toward coverage provided under another employer
38 health benefit plan; (2) the employer offers multiple
39 health benefit plans and the employee elects a different
40 plan during an open enrollment period; (3) a court has

1 ordered that coverage be provided for a spouse or minor
2 child under a covered employee's health benefit plan; (4)
3 (A) in the case of an eligible employee as defined in
4 paragraph (1) of subdivision (b), the plan cannot
5 produce a written statement from the employer stating
6 that the individual or the person through whom the
7 individual was eligible to be covered as a dependent,
8 prior to declining coverage, was provided with, and
9 signed, acknowledgment of an explicit written notice in
10 bold type specifying that failure to elect coverage during
11 the initial enrollment period permits the plan to impose,
12 at the time of the individual's later decision to elect
13 coverage, an exclusion from coverage for a period of 12
14 months as well as a six-month preexisting condition
15 exclusion, unless the individual meets the criteria
16 specified in paragraph (1), (2), or (3); (B) in the case of
17 an association member who did not purchase coverage
18 through a guaranteed association, the plan cannot
19 produce a written statement from the association stating
20 that the association sent a written notice in bold type to
21 all potentially eligible association members at their last
22 known address prior to the initial enrollment period
23 informing members that failure to elect coverage during
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1 her eligible and that application for enrollment was made
2 within 30 days of the change.

3 (e) “New business” means a health care service plan
4 contract issued to a small employer that is not the plan’s
5 in force business.

6 (f) “Preexisting condition provision” means a contract
7 provision that excludes coverage for charges or expenses
8 incurred during a specified period following the
9 employee’s effective date of coverage, as to a condition
10 for which medical advice, diagnosis, care, or treatment
11 was recommended or received during a specified period
12 immediately preceding the effective date of coverage.

13 (g) “Qualifying prior coverage” means:

14 (1) Any individual or group policy, contract, or
15 program that is written or administered by a disability
16 insurer, nonprofit hospital service plan, health care
17 service plan, fraternal benefits society, self-insured
18 employer plan, or any other entity, in this state or
19 elsewhere, and that arranges or provides medical,
20 hospital, and surgical coverage not designed to
21 supplement other private or governmental plans. The
22 term includes continuation or conversion coverage but
23 does not include accident only, credit, disability income,
24 Medicare supplement, long-term care, dental, vision,
25 coverage issued as a supplement to liability insurance,
26 insurance arising out of a workers’ compensation or
27 similar law, automobile medical payment insurance, or
28 insurance under which benefits are payable with or
29 without regard to fault and that is statutorily required to
30 be contained in any liability insurance policy or
31 equivalent self-insurance.

32 (2) The federal Medicare program pursuant to Title
33 XVIII of the Social Security Act.

34 (3) The medicaid program pursuant to Title XIX of
35 the Social Security Act.

36 (4) Any other publicly sponsored program, provided
37 in this state or elsewhere, of medical, hospital, and
38 surgical care.

(h) “Rating period” means the period for which premium rates established by a plan are in effect, and shall be no less than six months.

(i) “Risk adjusted employee risk rate” means the rate determined for an eligible employee of a small employer in a particular risk category after applying the risk adjustment factor.

(j) “Risk adjustment factor” means the percentage adjustment to be applied equally to each standard employee risk rate for a particular small employer, based upon any expected deviations from standard cost of services. This factor may not be more than 120 percent or less than 80 percent until July 1, 1996. Effective July 1, 1996, this factor may not be more than 110 percent or less than 90 percent.

(k) “Risk category” means the following characteristics of an eligible employee: age, geographic region, and family composition of the employee, plus the health benefit plan selected by the small employer.

(1) No more than the following age categories may be used in determining premium rates:

Under 30

30–39

40–49

50–54

55–59

60–64

65 and over

However, for the 65 and over age category, separate premium rates may be specified depending upon whether coverage under the plan contract will be primary or secondary to benefits provided by the federal Medicare program pursuant to Title XVIII of the federal Social Security Act.

(2) Small employer health care service plans shall base rates to small employers using no more than the following family size categories:

(A) Single.

(B) Married couple.

(C) One adult and child or children.

1 (D) Married couple and child or children.

2 (3) (A) In determining rates for small employers, a
3 plan that operates statewide shall use no more than nine
4 geographic regions in the state, have no region smaller
5 than an area in which the first three digits of all its ZIP
6 Codes are in common within a county, and divide no
7 county into more than two regions. Plans shall be deemed
8 to be operating statewide if their coverage area includes
9 90 percent or more of the state's population. Geographic
10 regions established pursuant to this section shall, as a
11 group, cover the entire state, and the area encompassed
12 in a geographic region shall be separate and distinct from
13 areas encompassed in other geographic regions.
14 Geographic regions may be noncontiguous.

15 (B) In determining rates for small employers, a plan
16 that does not operate statewide shall use no more than the
17 number of geographic regions in the state than is
18 determined by the following formula: the population, as
19 determined in the last federal census, of all counties that
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1 calendar quarter, employed at least three, but no more
2 than 50, eligible employees, the majority of whom were
3 employed within this state, that was not formed primarily
4 for purposes of buying health care service plan contracts,
5 and in which a bona fide employer-employee relationship
6 exists. However, for purposes of subdivisions (a), (b), and
7 (c) of Section 1357.03, the definition shall include
8 employers with at least five eligible employees until July
9 1, 1994, four eligible employees until July 1, 1995, and
10 three eligible employees thereafter. In determining the
11 number of eligible employees, companies that are
12 affiliated companies and that are eligible to file a
13 combined tax return for purposes of state taxation shall be
14 considered one employer. Subsequent to the issuance of
15 a health care service plan contract to a small employer
16 pursuant to this article, and for the purpose of
17 determining eligibility, the size of a small employer shall
18 be determined annually. Except as otherwise specifically
19 provided in this article, provisions of this article that apply
20 to a small employer shall continue to apply until the plan
21 contract anniversary following the date the employer no
22 longer meets the requirements of this definition. It
23 includes any small employer as defined in this paragraph
24 who purchases coverage through a guaranteed
25 association, and any employer purchasing coverage for
26 employees through a guaranteed association.

27 (2) Any guaranteed association, as defined in
28 subdivision (n), that purchases health coverage for
29 members of the association.

30 (m) "Standard employee risk rate" means the rate
31 applicable to an eligible employee in a particular risk
32 category in a small employer group.

33 (n) "Guaranteed association" means a nonprofit
34 organization comprised of a group of individuals or
35 employers who associate based solely on participation in
36 a specified profession or industry, accepting for
37 membership any individual or employer meeting its
38 membership criteria, and that (1) includes one or more
39 small employers as defined in paragraph (1) of
40 subdivision (l), (2) does not condition membership

1 directly or indirectly on the health or claims history of any
2 person, (3) uses membership dues solely for and in
3 consideration of the membership and membership
4 benefits, except that the amount of the dues shall not
5 depend on whether the member applies for or purchases
6 insurance offered to the association, (4) is organized and
7 maintained in good faith for purposes unrelated to
8 insurance, (5) has been in active existence on January 1,
9 1992, and for at least five years prior to that date, (6) has
10 included health insurance as a membership benefit for at
11 least five years prior to January 1, 1992, (7) has a
12 constitution and bylaws, or other analogous governing
13 documents that provide for election of the governing
14 board of the association by its members, (8) offers any
15 plan contract that is purchased to all individual members
16 and employer members in this state, (9) includes any
17 member choosing to enroll in the plan contracts offered
18 to the association provided that the member has agreed
19 to make the required premium payments, and (10)
20 covers at least 1,000 persons with the health care service
21 plan with which it contracts. The requirement of 1,000
22 persons may be met if component chapters of a statewide
23 association contracting separately with the same carrier
24 cover at least 1,000 persons in the aggregate.

25 This subdivision applies regardless of whether a
26 contract issued by a plan is with an association or a trust
27 formed for, or sponsored by, an association to administer
28 benefits for association members.

29 For purposes of this subdivision, an association formed
30 by a merger of two or more associations after January 1,
31 1992, and otherwise meeting the criteria of this
32 subdivision shall be deemed to have been in active
33 existence on January 1, 1992, if its predecessor
34 organizations had been in active existence on January 1,
35 1992, and for at least five years prior to that date and
36 otherwise met the criteria of this subdivision.

37 (o) "Members of a guaranteed association" means any
38 individual or employer meeting the association's
39 membership criteria if that person is a member of the
40 association and chooses to purchase health coverage

1 through the association. At the association's discretion, it
2 also may include employees of association members,
3 association staff, retired members, retired employees of
4 members, and surviving spouses and dependents of
5 deceased members. However, if an association chooses to
6 include these persons as members of the guaranteed
7 association, the association shall make that election in
8 advance of purchasing a plan contract. Health care
9 service plans may require an association to adhere to the
10 membership composition it selects for up to 12 months.

11 SEC. 17. Section 1357.50 of the Health and Safety
12 Code is amended to read:

13 1357.50. For purposes of this article:

14 (a) "Health benefit plan" means any individual or
15 group, insurance policy or health care service plan
16 contract, that provides medical, hospital, and surgical
17 benefits. The term does not include accident only, credit,
18 disability income, coverage of Medicare services
19 pursuant to contracts with the United States government,
20 Medicare supplement, long-term care insurance, dental,
21 vision, coverage issued as a supplement to liability
22 insurance, insurance arising out of a workers'
23 compensation or similar law, automobile medical
24 payment insurance, or insurance under which benefits
25 are payable with or without regard to fault and that is
26 statutorily required to be contained in any liability
27 insurance policy or equivalent self-insurance.

28 (b) "Late enrollee" means an eligible employee or
29 dependent who has declined health coverage under a
30 health benefit plan offered through employment or
31 sponsored by an employer at the time of the initial
32 enrollment period provided under the terms of the
33 health benefit plan, and who subsequently requests
34 enrollment in a health benefit plan of that employer;
35 provided that the initial enrollment period shall be a
36 period of at least 30 days. However, an eligible employee
37 or dependent shall not be considered a late enrollee if any
38 of the following is applicable:

39 (1) The individual meets all of the following
40 requirements:



1 (A) The individual was covered under another
2 employer health benefit plan at the time the individual
3 was eligible to enroll.

4 (B) The individual certified, at the time of the initial
5 enrollment that coverage under another employer health
6 benefit plan was the reason for declining enrollment
7 provided that, if the individual was covered under
8 another employer health plan, the individual was given
9 the opportunity to make the certification required by this
10 subdivision and was notified that failure to do so could
11 result in later treatment as a late enrollee.

12 (C) The individual has lost or will lose coverage under
13 another employer health benefit plan as a result of
14 termination of employment of the individual or of a
15 person through whom the individual was covered as a
16 dependent, change in employment status of the
17 individual or of a person through whom the individual
18 was covered as a dependent, termination of the other
19 plan's coverage, cessation of an employer's contribution
20 toward an employee or dependent's coverage, death of a
21 person through whom the individual was covered as a
22 dependent, or divorce.

23 (D) The individual requests enrollment within 30 days
24 after termination of coverage, or cessation of employer
25 contribution toward coverage provided under another
26 employer health benefit plan.

27 (2) The individual is employed by an employer that
28 offers multiple health benefit plans and the individual
29 elects a different plan during an open enrollment period.

30 (3) A court has ordered that coverage be provided for
31 a spouse or minor child under a covered employee's
32 health benefit plan. The health benefits plan shall enroll
33 a dependent child within 30 days after receipt of a court
34 order or request from the district attorney, either parent
35 or the person having custody of the child as defined in
36 Section 3751.5 of the Family Code, the employer, or the
37 group administrator. In the case of children who are
38 eligible for medicaid, the State Department of Health
39 Services may also make the request.

1 (4) The plan cannot produce a written statement from
2 the employer stating that, prior to declining coverage,
3 the individual or the person through whom the individual
4 was eligible to be covered as a dependent was provided
5 with, and signed acknowledgment of, explicit written
6 notice in bold type specifying that failure to elect
7 coverage during the initial enrollment period permits the
8 plan to impose, at the time of the individual's later
9 decision to elect coverage, an exclusion from coverage for
10 a period of 12 months as well as a six-month preexisting
11 condition exclusion, unless the individual meets the
12 criteria specified in paragraph (1), (2), or (3).

13 (c) "Preexisting condition provision" means a
14 contract provision that excludes coverage for charges or
15 expenses incurred during a specified period following the
16 enrollee's effective date of coverage, as to a condition for
17 which medical advice, diagnosis, care, or treatment was
18 recommended or received during a specified period
19 immediately preceding the effective date of coverage.

20 (d) "Qualifying prior coverage" means:

21 (1) Any individual or group policy, contract or
22 program, that is written or administered by a disability
23 insurance company, nonprofit hospital service plan,
24 health care service plan, fraternal benefits society,
25 self-insured employer plan, or any other entity, in this
26 state or elsewhere, and that arranges or provides medical,
27 hospital and surgical coverage not designed to
28 supplement other private or governmental plans. The
29 term includes continuation or conversion coverage but
30 does not include accident only, credit, disability income,
31 Medicare supplement, long-term care insurance, dental,
32 vision, coverage issued as a supplement to liability
33 insurance, insurance arising out of a workers'
34 compensation or similar law, automobile medical
35 payment insurance, or insurance under which benefits
36 are payable with or without regard to fault and that is
37 statutorily required to be contained in any liability
38 insurance policy or equivalent self-insurance.

39 (2) The federal Medicare program pursuant to Title
40 XVIII of the Social Security Act.

1 (3) The medicaid program pursuant to Title XIX of
2 the Social Security Act.

3 (4) Any other publicly sponsored program, provided
4 in this state or elsewhere, of medical, hospital and surgical
5 care.

6 (e) “Waivered condition” means a contract provision
7 that excludes coverage for charges or expenses incurred
8 during a specified period of time for one or more specific,
9 identified, medical conditions.

10 SEC. 18. Section 1374.3 of the Health and Safety Code
11 is amended to read:

12 1374.3. Notwithstanding any other provision of this
13 chapter or of a health care service plan contract, every
14 health care service plan shall comply with the
15 requirements of Chapter 7 (commencing with Section
16 3750) of Part 1 of Division 9 of the Family Code and
17 Section 14124.94 of the Welfare and Institutions Code.

18 SEC. 19. Section 102425 of the Health and Safety Code
19 is amended to read:

20 102425. (a) The certificate of live birth for any live
21 birth occurring on or after January 1, 1980, shall contain
22 those items necessary to establish the fact of the birth and
23 shall contain only the following information:

24 (1) Full name and sex of child.

25 (2) Date of birth, including month, day, hour, and
26 year.

27 (3) Planned place of birth and place of birth.

28 (4) Full name of father, birthplace, and date of birth
29 of father including month, day, and year. If the parents
30 are not married to each other, the father’s name shall not
31 be listed on the birth certificate unless the father and the
32 mother sign a voluntary declaration of paternity at the
33 hospital or other place of birth within 10 days of the child’s
34 birth. The birth certificate may be amended to add the
35 father’s name at a later date only if paternity for the child
36 has been established by a judgment of a court of
37 competent jurisdiction or by the filing of a voluntary
38 declaration of paternity.

39 (5) Full birth name of mother, birthplace, and date of
40 birth of mother including month, day, and year.

- 1 (6) Multiple births and birth order of multiple births.
- 2 (7) Signature, and relationship to child, of a parent or
- 3 other informant, and date signed.
- 4 (8) Name, title, and mailing address of attending
- 5 physician and surgeon or principal attendant, signature,
- 6 and certification of live birth by attending physician and
- 7 surgeon or principal attendant or certifier, date signed,
- 8 and name and title of certifier if other than attending
- 9 physician and surgeon or principal attendant.
- 10 (9) Date accepted for registration and signature of
- 11 local registrar.
- 12 (10) A state birth certificate number and local
- 13 registration district and number.
- 14 (11) A blank space for entry of date of death with a
- 15 caption reading "Date of Death."
- 16 (b) In addition to the items listed in subdivision (a),
- 17 the certificate of live birth shall contain the following
- 18 medical and social information, provided that the
- 19 information is kept confidential pursuant to Sections
- 20 102430 and 102447 and is clearly labeled "Confidential
- 21 Information for Public Health Use Only":
- 22 (1) Birth weight.
- 23 (2) Pregnancy history.
- 24 (3) Race and ethnicity of mother and father.
- 25 (4) Residence address of mother.
- 26 (5) A blank space for entry of census tract for mother's
- 27 address.
- 28 (6) Month prenatal care began and number of
- 29 prenatal visits.
- 30 (7) Date of last normal menses.
- 31 (8) Description of complications of pregnancy and
- 32 concurrent illnesses, congenital malformation, and any
- 33 complication of labor and delivery, including surgery;
- 34 provided that this information is essential medical
- 35 information and appears in total on the face of the
- 36 certificate.
- 37 (9) Mother's and father's occupations and kind of
- 38 business or industry.
- 39 (10) Education level of mother and father.



1 (11) Principal source of pay for prenatal care, which
2 shall include all of the following: Medi-Cal, health
3 maintenance organization or prepaid health plan, private
4 insurance companies, medically indigent, self-pay, other
5 sources which shall include, Medicare, workers'
6 compensation, Title V, other government or
7 nongovernment programs, no charge, and other
8 categories as determined by the State Department of
9 Health Services.

10 This paragraph shall become inoperative on January 1,
11 1999, or on the implementation date of the decennial
12 birth certificate revision due to occur on or about January
13 1, 1999, whichever occurs first.

14 (12) Expected principal source of pay for delivery,
15 which shall include all of the following: Medi-Cal, health
16 maintenance organization or prepaid health plan, private
17 insurance companies, medically indigent, self-pay, other
18 sources which shall include, Medicare, workers'
19 compensation, Title V, other government or
20 nongovernment programs, no charge, and other
21 categories as determined by the State Department of
22 Health Services.

23 This paragraph shall become inoperative on January 1,
24 1999, or on the implementation date of the decennial
25 birth certificate revision due to occur on or about January
26 1, 1999, whichever occurs first.

27 (13) An indication of whether or not the child's parent
28 desires the automatic issuance of a Social Security
29 number to the child.

30 (14) On and after January 1, 1995, the social security
31 numbers of the mother and father, unless subdivision (b)
32 of Section 102150 applies.

33 (c) Item 8, specified in subdivision (b), shall be
34 completed by the attending physician and surgeon or the
35 attending physician's and surgeon's designated
36 representative. The names and addresses of children
37 born with congenital malformations, who require
38 followup treatment, as determined by the child's
39 physician and surgeon, shall be furnished by the physician

1 and surgeon to the local health officer, if permission is
2 granted by either parent of the child.

3 (d) The parent shall only be asked to sign the form
4 after both the public portion and the confidential medical
5 and social information items have been entered upon the
6 certificate of live birth.

7 (e) The State Registrar shall instruct all local registrars
8 to collect the information specified in this section with
9 respect to certificates of live birth. The information shall
10 be transcribed on the certificate of live birth in use at the
11 time and shall be limited to the information specified in
12 this section.

13 Information relating to concurrent illnesses,
14 complications of pregnancy and delivery, and congenital
15 malformations shall be completed by the physician and
16 surgeon, or physician's and surgeon's designee, inserting
17 in the space provided on the confidential portion of the
18 certificate the appropriate number or numbers listed on
19 the VS-10A supplemental worksheet. The VS-10A
20 supplemental form shall be used as a worksheet only and
21 shall not in any manner be linked with the identity of the
22 child or the mother, nor submitted with the certificate to
23 the State Registrar. All information transferred from the
24 worksheet to the certificate shall be fully explained to the
25 parent or other informant prior to the signing of the
26 certificate. No questions relating to drug or alcohol abuse
27 may be asked.

28 (f) If the implementation date of the decennial birth
29 certificate revision occurs prior to January 1, 1999, within
30 30 days of this implementation date the State
31 Department of Health Services shall file a letter with the
32 Secretary of the Senate and with the Chief Clerk of the
33 Assembly, so certifying.

34 SEC. 20. Section 10119 of the Insurance Code is
35 amended to read:

36 10119. On and after the operative date of this section:

37 (a) No policy of disability insurance which, in addition
38 to covering the insured, also covers members of the
39 insured's immediate family, may be issued or amended in
40 this state if it contains any disclaimer, waiver, or other

1 limitation of coverage relative to the accident and
2 sickness coverage or insurability of newborn infants of an
3 insured from and after the moment of birth or of any
4 minor child placed with an insured for adoption from and
5 after the moment the child is placed in the physical
6 custody of the insured for adoption.

7 (b) Each such policy of disability insurance shall
8 contain a provision granting immediate accident and
9 sickness coverage to each newborn infant of, and each
10 minor child placed for adoption with, any insured as
11 required by subdivision (a).

12 (c) A policy of disability insurance, self-insured care
13 coverage, employee welfare benefit plan, or nonprofit
14 hospital service plan, shall comply with the standards set
15 forth in Chapter 7 (commencing with Section 3750) of
16 Part 1 of Division 9 of the Family Code and Section
17 14124.94 of the Welfare and Institutions Code.

18 SEC. 21. Section 10121.6 of the Insurance Code is
19 amended to read:

20 10121.6. (a) No policy of group disability insurance or
21 self-insured employee welfare benefit plan which
22 provides hospital, medical, or surgical expense benefits
23 for employees, insureds, or policyholders and their
24 dependents shall exclude a dependent child from
25 eligibility or benefits solely because the dependent child
26 does not reside with the employee, insured, or
27 policyholder.

28 (b) Each policy of group disability insurance or
29 self-insured employee welfare benefit plan which
30 provides hospital, medical, or surgical expense benefits
31 for employees, insureds, or policyholders and their
32 dependents shall enroll, upon application by the
33 employer or group administrator, a dependent child of
34 the noncustodial parent when that parent is the
35 employee, insured, or policyholder at any time either the
36 parent or the person having custody of the child as
37 defined in Section 3751.5 of the Family Code, or the
38 district attorney makes an application for enrollment to
39 the employer or group administrator when a court order
40 for medical support exists. In the case of children who are

1 eligible for medicaid, the State Department of Health
2 Services may also make that application.

3 SEC. 22. Section 10198.6 of the Insurance Code is
4 amended to read:

5 10198.6. For purposes of this article:

6 (a) "Health benefit plan" means any group or
7 individual policy or contract that provides medical,
8 hospital, and surgical benefits. The term does not include
9 accident only, credit, disability income, coverage of
10 Medicare services pursuant to contracts with the United
11 States government, Medicare supplement, long-term
12 care insurance, dental, vision, coverage issued as a
13 supplement to liability insurance, insurance arising out of
14 a workers' compensation or similar law, automobile
15 medical payment insurance, or insurance under which
16 benefits are payable with or without regard to fault and
17 that is statutorily required to be contained in any liability
18 insurance policy or equivalent self-insurance.

19 (b) "Late enrollee" means an eligible employee or
20 dependent who has declined health coverage under a
21 health benefit plan offered through employment or
22 sponsored by an employer at the time of the initial
23 enrollment period provided under the terms of the
24 health benefit plan, and who subsequently requests
25 enrollment in a health benefit plan of that employer;
26 provided that the initial enrollment period shall be a
27 period of at least 30 days. However, an eligible employee
28 or dependent shall not be considered a late enrollee if any
29 of the following is applicable:

30 (1) The individual meets all of the following
31 requirements:

32 (A) The individual was covered under another
33 employer health benefit plan at the time the individual
34 was eligible to enroll.

35 (B) The individual certified, at the time of the initial
36 enrollment that coverage under another employer health
37 benefit plan was the reason for declining enrollment
38 provided that, if the individual was covered under
39 another employer health plan, the individual was given
40 the opportunity to make the certification required by this

1 subdivision and was notified that failure to do so could
2 result in later treatment as a late enrollee.

3 (C) The individual has lost or will lose coverage under
4 another employer health benefit plan as a result of
5 termination of employment of the individual or of a
6 person through whom the individual was covered as a
7 dependent, change in employment status of the
8 individual or of a person through whom the individual
9 was covered as a dependent, termination of the other
10 plan's coverage, cessation of an employer's contribution
11 toward an employee or dependent's coverage, death of a
12 person through whom the individual was covered as a
13 dependent, or divorce.

14 (D) The individual requests enrollment within 30 days
15 after termination of coverage, or cessation of employer
16 contribution toward coverage provided under another
17 employer health benefit plan.

18 (2) The individual is employed by an employer that
19 offers multiple health benefit plans and the individual
20 elects a different plan during an open enrollment period.

21 (3) A court has ordered that coverage be provided for
22 a spouse or minor child under a covered employee's
23 health benefit plan.

24 (4) The carrier cannot produce a written statement
25 from the employer stating that, prior to declining
26 coverage, the individual or the person through whom the
27 individual was eligible to be covered as a dependent was
28 provided with, and signed acknowledgment of, explicit
29 written notice in bold type specifying that failure to elect
30 coverage during the initial enrollment period permits the
31 carrier to impose, at the time of the individual's later
32 decision to elect coverage, an exclusion from coverage for
33 a period of twelve months as well as a six month
34 preexisting condition exclusion, unless the individual
35 meets the criteria specified in paragraph (1), (2), or (3).

36 (c) "Preexisting condition provision" means a policy
37 provision that excludes coverage for charges or expenses
38 incurred during a specified period following the insured's
39 effective date of coverage, as to a condition for which
40 medical advice, diagnosis, care, or treatment was

1 recommended or received during a specified period
2 immediately preceding the effective date of coverage.

3 (d) “Qualifying prior coverage” means:

4 (1) Any individual or group policy, contract or
5 program, that is written or administered by a disability
6 insurance company, nonprofit hospital service plan,
7 health care service plan, fraternal benefits society,
8 self-insured employer plan, or any other entity, in this
9 state or elsewhere, and that arranges or provides medical,
10 hospital, and surgical coverage not designed to
11 supplement other private or governmental plans. The
12 term includes continuation or conversion coverage but
13 does not include accident only, credit, disability income,
14 Medicare supplement, long-term care insurance, dental,
15 vision, coverage issued as a supplement to liability
16 insurance, insurance arising out of a workers’
17 compensation or similar law, automobile medical
18 payment insurance, or insurance under which benefits
19 are payable with or without regard to fault and that is
20 statutorily required to be contained in any liability
21 insurance policy or equivalent self-insurance.

22 (2) The federal Medicare program pursuant to Title
23 XVIII of the Social Security Act.

24 (3) The medicaid program pursuant to Title XIX of
25 the Social Security Act.

26 (4) Any other publicly sponsored program, provided
27 in this state or elsewhere, of medical, hospital and surgical
28 care.

29 SEC. 23. Section 10702.1 of the Insurance Code is
30 amended to read:

31 10702.1. Any person or entity subject to the
32 requirements of this chapter shall comply with the
33 standards set forth in Chapter 7 (commencing with
34 Section 3750) of Part 1 of Division 9 of the Family Code
35 and Section 14124.94 of the Welfare and Institutions Code.

36 SEC. 24. Section 10711 of the Insurance Code is
37 amended to read:

38 10711. No carrier shall be required by the provisions
39 of this chapter:

1 (a) To offer coverage to, or accept applications from,
2 a small employer as defined in paragraph (1) of
3 subdivision (w) of Section 10700, where the small
4 employer is not physically located in a carrier's approved
5 service areas.

6 (b) To offer coverage to or accept applications from a
7 small employer as defined in paragraph (2) of subdivision
8 (w) of Section 10700 where the small employer is seeking
9 coverage for eligible employees who do not work or
10 reside in a carrier's approved service areas.

11 (c) To include in a health benefits plan an otherwise
12 eligible employee or dependent, when the eligible
13 employee or dependent does not work or reside within a
14 carrier's approved service area, except as provided in
15 Section 10702.1.

16 (d) To offer coverage to, or accept applications from,
17 a small employer for a benefits plan design within an area
18 if the commissioner has found that the carrier will not
19 have the capacity within the area in its network of
20 providers to deliver service adequately to the eligible
21 employees and dependents of that employee because of
22 its obligations to existing group contractholders and
23 enrollees and that the action is not unreasonable or
24 clearly inconsistent with the intent of this chapter.

25 A carrier that cannot offer coverage to small employers
26 in a specific service area because it is lacking sufficient
27 capacity may not offer coverage in the applicable area to
28 new employer groups with more than 50 eligible
29 employees until the carrier notifies the commissioner
30 that it has regained capacity to deliver services to small
31 employers, and certifies to the commissioner that from
32 the date of the notice it will enroll all small groups
33 requesting coverage from the carrier until the carrier has
34 met the requirements of subdivision (h) of Section 10705.

35 (e) To offer coverage to a small employer, or an
36 eligible employee as defined in paragraph (2) of
37 subdivision (g) of Section 10700, who within 12 months of
38 application for coverage terminated from a health
39 benefit plan offered by the carrier.

1 SEC. 25. Section 10719.1 of the Insurance Code is
2 amended to read:

3 10719.1. Any person or entity subject to the
4 requirements of this chapter shall comply with the
5 standards set forth in Chapter 7 (commencing with
6 Section 3750) of Part 1 of Division 9 of the Family Code
7 and Section 14124.94 of the Welfare and Institutions Code.

8 SEC. 26. Section 10731.2 of the Insurance Code is
9 amended to read:

10 10731.2. Any person or entity subject to the
11 requirements of this chapter shall comply with the
12 standards set forth in Chapter 7 (commencing with
13 Section 3750) of Part 1 of Division 9 of the Family Code
14 and Section 14124.94 of the Welfare and Institutions Code.

15 SEC. 27. Section 11516.1 of the Insurance Code is
16 amended to read:

17 11516.1. (a) No group nonprofit hospital service plan
18 which provides hospital, medical, or surgical expense
19 benefits for employees, members, or policyholders and
20 their dependents shall exclude a dependent child from
21 eligibility or benefits solely because the dependent child
22 does not reside with the employee, member, or
23 policyholder.

24 (b) A group nonprofit hospital service plan which
25 provides hospital, medical, or surgical expense benefits
26 for employees, members, or policyholders and their
27 dependents shall enroll, upon application by the
28 employer or group administrator, a dependent child of
29 the noncustodial parent when that parent is the
30 employee, member, or policyholder of the plan at any
31 time the either parent or the person having custody of the
32 child as defined in Section 3751.5 of the Family Code, or
33 district attorney makes an application for enrollment to
34 the employer or group administrator when a court order
35 for medical support exists. In the case of children who are
36 eligible for medicaid, the State Department of Health
37 Services may also make that application.

38 SEC. 28. Section 2803.5 of the Labor Code is amended
39 to read:

1 2803.5. Any employer who offers health care
2 coverage, including employers and insurers, shall comply
3 with the standards set forth in Chapter 7 (commencing
4 with Section 3750) of Part 1 of Division 9 of the Family
5 Code and Section 14124.94 of the Welfare and Institutions
6 Code.

7 ~~SEC. 29. Section 270i is added to the Penal Code, to~~
8 ~~read:~~

9 ~~270i. (a) A person who, knowing that an obligor has~~
10 ~~a duty under an administrative or judicial order for~~
11 ~~payment of child support, does either of the acts specified~~
12 ~~in paragraphs (1) or (2) is guilty of a misdemeanor,~~
13 ~~punishable by imprisonment in a county jail not~~
14 ~~exceeding one year, by a fine equal to the amount that is~~
15 ~~delinquent under the child support order, but not~~
16 ~~exceeding two thousand five hundred dollars (\$2,500), or~~
17 ~~by both that imprisonment and fine.~~

18 ~~(1) The person withholds information about the~~
19 ~~residence or employment of the obligor when a child~~
20 ~~support enforcement agency requests that information.~~
21 ~~The request shall include the following statement in~~
22 ~~boldfaced type: The above named person owes a duty of~~
23 ~~child support pursuant to a judicial or administrative~~
24 ~~order. Section 270i of the Penal Code makes it a~~
25 ~~misdemeanor for any person to knowingly withhold~~
26 ~~information from a child support enforcement agency~~
27 ~~about the residence or employment of an individual who~~
28 ~~owes a duty of child support.~~

29 ~~(2) (A) The person participates in a commercial,~~
30 ~~business, employment, or other financial arrangement~~
31 ~~with the obligor, knowing at the time the arrangement is~~
32 ~~made that it will allow the obligor to avoid paying all or~~
33 ~~some of the child support when it is due or to avoid having~~
34 ~~a lien placed on assets for the payment of delinquent child~~
35 ~~support.~~

36 ~~(B) It is a defense to prosecution under this paragraph~~
37 ~~that the defendant did not intend to assist the obligor in~~
38 ~~the nonpayment of child support or the obligor did not~~
39 ~~intend to avoid paying child support.~~

~~(b) This section does not prohibit an attorney who represents a child support obligor in proceedings to contest or modify a child support order from entering into an arrangement with the obligor for the purpose of payment of that attorney's fees.~~

~~(c) This section shall not apply to title or escrow companies, any state or federally regulated or licensed lenders or arrangers of credit or their subsidiaries, affiliates, or employees when providing title or escrow services, or any banking or lending services making or arranging loans, or enforcing or dealing with the security on any lien.~~

~~(d) In any case in which there is a conviction under this section and a fine is imposed, the court shall direct the fine to be paid in whole or in part to the obligee.~~

~~SEC. 30.—~~

SEC. 29. Section 11350.3 of the Welfare and Institutions Code is amended to read:

11350.3. In any action filed by the district attorney pursuant to Section 11350 or 11350.1, the district attorney shall provide the mother and the alleged father the opportunity to voluntarily acknowledge paternity by signing a paternity declaration as described in Section 7574 of the Family Code prior to a hearing or trial where the paternity of a minor child is at issue. The opportunity to voluntarily acknowledge paternity may be provided either before or after an action pursuant to Section 11350 or 11350.1 is filed and served upon the alleged father. For the purpose of meeting the requirements of this action, the district attorney may afford the defendant an opportunity to enter into a stipulation for judgment of paternity after an action for paternity has been filed in lieu of the voluntary declaration of paternity.

~~SEC. 31.—~~

SEC. 30. Section 11350.4 of the Welfare and Institutions Code is amended to read:

11350.4. (a) Notwithstanding any other law, an action for child support may be brought by the district attorney on behalf of a minor child or caretaker parent based upon a voluntary declaration of paternity as

1 provided in Chapter 3 (commencing with Section 7570)
2 of Part 2 of Division 12 of the Family Code.

3 (b) A copy of the voluntary declaration of paternity
4 shall be filed with the complaint for child support filed by
5 the district attorney, and a copy shall be served with the
6 complaint on the party against whom the child support
7 order is sought.

8 (c) Except as provided in Sections 7576 and 7577 of the
9 Family Code, the voluntary declaration of paternity shall
10 be given the same force and effect as a judgment for
11 paternity entered by a court of competent jurisdiction.
12 The court shall make appropriate orders for support of
13 the minor child based upon the voluntary declaration of
14 paternity unless evidence is presented that the voluntary
15 declaration of paternity has been rescinded by the parties
16 or set aside by a court as provided in Section 7575 of the
17 Family Code.

18 (d) The Judicial Council shall develop the forms and
19 procedures necessary to implement this section.

20 ~~SEC. 32.—~~

21 *SEC. 31.* Section 11476 of the Welfare and Institutions
22 Code is amended to read:

23 11476. It shall be the duty of the county department
24 to refer all cases where a parent is absent from the home,
25 or where the parents are unmarried and parentage has
26 not been established by the completion and filing of a
27 voluntary declaration of paternity pursuant to Section
28 7573 of the Family Code or a court of competent
29 jurisdiction, to the district attorney immediately at the
30 time the application for public assistance, including
31 Medi-Cal benefits, or certificate of eligibility, is signed by
32 the applicant or recipient. If an applicant is found to be
33 ineligible, the applicant shall be notified in writing that
34 the referral of the case to the district attorney may be
35 terminated at the applicant's request. The county
36 department shall cooperate with the district attorney and
37 shall make available to him or her all pertinent
38 information as provided in Section 11478.

39 Upon referral from the county department, the district
40 attorney shall investigate the question of nonsupport or

1 paternity and shall take all steps necessary to obtain child
2 support for the needy child, enforce spousal support as
3 part of the state plan under Section 11475.2, and
4 determine paternity in the case of a child born out of
5 wedlock. Upon the advice of the county department that
6 a child is being considered for adoption, the district
7 attorney shall delay the investigation and other actions
8 with respect to the case until advised that the adoption is
9 no longer under consideration. The granting of public
10 assistance or Medi-Cal benefits to an applicant shall not
11 be delayed or contingent upon investigation by the
12 district attorney.

13 In cases where Medi-Cal benefits are the only assistance
14 provided, the district attorney shall provide child and
15 spousal support services unless the recipient of the
16 services notifies the district attorney that only services
17 related to securing Medi-Cal benefits are requested.

18 Where a court order has been obtained, any
19 contractual agreement for support between the district
20 attorney or the county department and the noncustodial
21 parent shall be deemed null and void to the extent that
22 it is not consistent with the court order.

23 Whenever a family which has been receiving public
24 assistance, including Medi-Cal, ceases to receive
25 assistance, including Medi-Cal, the district attorney shall,
26 to the extent required by federal regulations, continue to
27 enforce support payments from the noncustodial parent
28 until such time as the individual on whose behalf the
29 enforcement efforts are made sends written notice to the
30 district attorney requesting that enforcement services be
31 discontinued.

32 The district attorney shall, where appropriate, utilize
33 reciprocal arrangements adopted with other states in
34 securing support from an absent parent. In individual
35 cases where utilization of reciprocal arrangements has
36 proven ineffective, the district attorney may forward to
37 the Attorney General a request to utilize federal courts
38 in order to obtain or enforce orders for child or spousal
39 support. If reasonable efforts to collect amounts assigned
40 pursuant to Section 11477 have failed, the district

1 attorney may request that the case be forwarded to the
2 Treasury Department for collection in accordance with
3 federal regulations. The Attorney General, where
4 appropriate, shall forward these requests to the Secretary
5 of Health and Human Services, or a designated
6 representative.

7 *SEC. 32. Section 11478.8 of the Welfare and*
8 *Institutions Code is amended to read:*

9 11478.8. (a) Upon receipt of a written request from
10 a district attorney enforcing the obligation of parents to
11 support their children pursuant to Section 11475.1, every
12 employer and labor organization shall cooperate with and
13 provide relevant employment and income information
14 which they have in their possession to the district
15 attorney for the purpose of establishing, modifying, or
16 enforcing the support obligation. No employer or labor
17 organization shall incur any liability for providing this
18 information to the district attorney.

19 Relevant employment and income information shall
20 include, but not be limited to, all of the following:

21 (1) Whether a named person has or has not been
22 employed by an employer or whether a named person
23 has or has not been employed to the knowledge of the
24 labor organization.

25 (2) The full name of the employee or member or the
26 first and middle initial and last name of the employee or
27 member.

28 (3) The employee's or member's last known residence
29 address.

30 (4) The employee's or member's date of birth.

31 (5) The employee's or member's social security
32 number.

33 (6) The dates of employment.

34 (7) All earnings paid to the employee or member and
35 reported as W-2 compensation in the prior tax year and
36 the employee's or member's current basic rate of pay.

37 (8) Whether the dependent health insurance
38 coverage is available to the employee through
39 employment or membership in the labor organization.

1 The district attorney shall notify the employer and
2 labor organization of the district attorney case file
3 number in making a request pursuant to this section. The
4 written request shall include at least three of the
5 following elements regarding the person who is the
6 subject of the inquiry: (A) first and last name and middle
7 initial, if known; (B) social security number; (C) driver's
8 license number; (D) birth date; (E) last known address;
9 or (F) spouse's name.

10 The district attorney shall send a notice that a request
11 for this information has been made to the last known
12 address of the person who is the subject of the inquiry.

13 (b) An employer or labor organization which fails to
14 provide relevant employment information to the district
15 attorney within 30 days of receiving a request pursuant to
16 subdivision (a) may be assessed a civil penalty of a
17 maximum of ~~five hundred dollars (\$500)~~ *one thousand*
18 *dollars (\$1,000)*, plus attorneys' fees and costs.
19 Proceedings to impose the civil penalty shall be
20 commenced by the filing and service of an order to show
21 cause.

22 (c) "Labor organization," for the purposes of this
23 section means a labor organization as defined in Section
24 1117 of the Labor Code or any related benefit trust fund
25 covered under the federal Employee Retirement Income
26 Security Act of 1974 (Chapter 18 (commencing with
27 Section 1001) of Title 29 of the United States Code).

28 (d) Any reference to the district attorney in this
29 section shall apply only when the district attorney is
30 otherwise ordered or required to act pursuant to existing
31 law. Nothing in this section shall be deemed to mandate
32 additional enforcement or collection duties upon the
33 district attorney beyond those imposed under existing
34 law on the effective date of this section.

35 SEC. 33. Section 14124.93 of the Welfare and
36 Institutions Code, as added by Section 24 of Chapter 147
37 of the Statutes of 1994, is repealed.

38 SEC. 34. Section 14124.94 is added to the Welfare and
39 Institutions Code, to read:

1 14124.94. (a) When the rights of a Medi-Cal
2 beneficiary to health care benefits from an insurer have
3 been assigned to the department, an insurer shall not
4 impose any requirement on the department that is
5 different from any requirement applicable to an agent or
6 any assignee of the covered beneficiary.

7 (b) The department, in the administration of the
8 Medi-Cal program, may garnish the wages, salary, or
9 other employment income of, and withhold amounts
10 from state tax refunds from, any person to whom both of
11 the following apply:

12 (1) The person is required by a court or administrative
13 order to provide coverage of the costs of health services
14 to a child who is eligible for medical assistance under the
15 Medi-Cal program.

16 (2) The person has received payment from a third
17 party for the costs of the health services for the child, but
18 he or she has not used the payments to reimburse, as
19 appropriate, either the other parent or the person having
20 custody of the child, or the provider of the health services,
21 to the extent necessary to reimburse the department for
22 expenditures for those costs under the Medi-Cal program.
23 All claims for current or past due child support shall take
24 priority over claims made by the department for the costs
25 of Medi-Cal services.

26 (c) For purposes of this section, “insurer” includes
27 every health care service plan, self-insured welfare
28 benefit plan, including those regulated pursuant to the
29 Employee Retirement Income Security Act of 1974 (29
30 U.S.C. Sec. 1001, et. seq.), self-funded employer plan,
31 disability insurer, nonprofit hospital service plan, labor
32 union trust fund, employer, and any other similar plan,
33 insurer, or entity offering a health coverage plan.

34 SEC. 35. Section 15200.1 of the Welfare and
35 Institutions Code is amended to read:

36 15200.1. (a) There is hereby appropriated out of any
37 money in the State Treasury not otherwise appropriated,
38 from which the department shall make payments to each
39 county on any support payments collected or distributed,
40 or both, federal incentive funds on the amount received

1 which qualify therefor. In addition, the department shall
2 pay to each county on any support collections distributed,
3 regardless of the date of collection, a state incentive of 7.5
4 percent. This amount shall be paid on collections used to
5 reduce or repay aid which is paid pursuant to this chapter,
6 on collections paid to an aided family in the form of
7 income which is not included in determining eligibility
8 for assistance pursuant to federal law (also referred to as
9 “disregards”), on collections paid to an aided family in the
10 form of income which is included in determining
11 eligibility (also referred to as “pass-ons” and “excess”),
12 and for aid which is entitled to federal matching funds.

13 (b) In addition, a county may qualify for an additional
14 state incentive payment under Section 15200.7.

15 (c) Where more than one county has participated in
16 the enforcement or collection, the federal and state
17 AFDC incentive payments authorized by this section
18 shall be made to the collecting county except that the
19 federal non-AFDC incentive, and any non-AFDC
20 incentive paid under Section 15200.95, shall be paid to the
21 appropriate jurisdiction as determined by the State
22 Department of Social Services.

23 (d) Where more than one state has participated in the
24 enforcement or collection, the incentive payment, if any,
25 shall be made in accordance with Section 15200.2.

26 (e) This section shall become operative on July 1, 1998.

27 SEC. 36. Section 15200.2 of the Welfare and
28 Institutions Code is amended to read:

29 15200.2. (a) There is hereby appropriated out of any
30 money in the State Treasury not otherwise appropriated,
31 from which the department shall make payments to
32 California counties, on any interstate support collections
33 collected or distributed, or both, federal incentive funds
34 on the amount received which qualify therefor. In
35 addition, the department shall pay to each county on any
36 support collections distributed, regardless of the date of
37 collection, a state incentive of 7.5 percent. This amount
38 shall be paid on collections used to reduce or repay aid
39 which is paid pursuant to this chapter, on collections paid
40 to an aided family in the form of income which is not

1 included in determining eligibility for assistance
2 pursuant to federal law (also referred to as “disregards”),
3 on collections paid to an aided family in the form of
4 income which is included in determining eligibility (also
5 referred to as “pass-ons” and “excess”), and for aid which
6 is entitled to federal matching funds. In addition, a county
7 may qualify for an additional state incentive payment
8 under Section 15200.7.

9 (b) The department shall, by regulation, pay the
10 incentive payment to the county distributing the support
11 payment from another state.

12 (c) Where a county makes a collection for another
13 state, the department shall make the federal incentive
14 payment to the county making the collection. No state
15 incentive shall be paid on collections made by a county on
16 behalf of another state.

17 (d) This section shall become operative on July 1, 1998.

18 SEC. 37. Section 15200.3 of the Welfare and
19 Institutions Code is amended to read:

20 15200.3. (a) There is hereby appropriated out of any
21 money in the General Fund not otherwise appropriated,
22 amounts from which the department shall make federal
23 incentive payments to each county on nonfederally
24 funded foster care support payments collected or
25 distributed.

26 (b) The department shall pay to counties, in addition
27 to the federal incentive for nonfederally funded foster
28 care, a state incentive on collections used to repay the
29 state’s share of aid. The increased state incentive shall be
30 paid to the extent and as specified in subdivision (c).

31 (c) The state incentive provided in subdivision (b) for
32 nonfederal foster care cases shall only apply to those
33 statewide collections distributed in a fiscal year in excess
34 of the 1982–83 budget projection. From the excess, 7.5
35 percent, or the increased incentive, of collections for
36 nonfederal foster care cases shall be set aside for payment
37 of these incentives. At the end of the fiscal year payment
38 to each county of the incentive money shall be in
39 proportion to the percentage of the total nonfederal cases
40 support collection for the state which each county has

1 distributed. The percentage incentive specified in
2 subdivision (a) shall not exceed the total incentive
3 provided by the state for federal foster care cases at any
4 time but shall automatically be adjusted for any
5 reductions. Any remaining funds shall be credited to
6 offset expenditures for AFDC-FC.

7 (d) The Legislature finds and declares that the state
8 incentive provided pursuant to this section is sufficient to
9 reimburse counties for court and all other costs incurred
10 through enforcement of parental liability in nonfederally
11 funded foster care cases.

12 (e) This section shall become operative on July 1, 1998.

13 SEC. 38. Section 15200.7 of the Welfare and
14 Institutions Code is amended to read:

15 15200.7. (a) In addition to funds appropriated
16 pursuant to Sections 15200.1 and 15200.2, there is hereby
17 annually appropriated from the General Fund to the
18 State Department of Social Services beginning in fiscal
19 year 1997-98, and based on the increase in fiscal year
20 1996-97 Aid to Families with Dependent Children child
21 support collections above Aid to Families with
22 Dependent Children child support collections in fiscal
23 year 1995-96, a sum equal to 50 percent of the state's share
24 of those increased collections. The sum shall be computed
25 after payment of the incentive pursuant to increased
26 collections. The sum shall be computed after payment of
27 the incentive pursuant to Sections 15200.1 and 15200.2 has
28 been taken out of the state share. The sum to be
29 appropriated shall be computed in a similar manner
30 annually thereafter.

31 (b) The sum appropriated pursuant to subdivision (a)
32 shall be allocated by the department to each county
33 which increased its collections and shall be based on each
34 county's percentage of the total increased collections in
35 those counties.

36 (c) This section shall become operative on July 1, 1998.

37 SEC. 39. Section 15200.8 of the Welfare and
38 Institutions Code is amended to read:

39 15200.8. (a) The department shall establish a
40 performance-based incentive system which will provide

1 federal and state incentive funds to counties based on
2 standards of performance in the child support program.
3 The performance standards established shall determine
4 the incentive rates to be paid on any support collections
5 distributed on or after January 1, 1992.

6 (b) The performance-based incentive system shall
7 have two levels of incentives.

8 (1) The first level, hereafter referred to as "Tier I,"
9 shall provide counties with a base incentive rate
10 (referred to in this article as the base rate). Tier I also shall
11 provide an increased incentive rate (referred to in this
12 article as the compliance rate) to each county
13 determined by the department to be in compliance with
14 all federal and state child support enforcement program
15 requirements. The compliance incentive rate may also be
16 provided to each county that is in the process of
17 conversion to the Statewide Automated Child Support
18 System, as defined in subdivision (c) of Section 10815, if
19 the department determines that there is a reasonable
20 likelihood that the county would be in full compliance
21 with all federal and state child support enforcement
22 program requirements except for the fact that the county
23 has been required to divert resources to prepare for
24 conversion to the Statewide Automated Child Support
25 System and if the department further determines that the
26 county's efforts will bring the county into full compliance
27 with all federal and state child support enforcement
28 program requirements within a reasonable period of
29 time.

30 (2) In determining Tier I county compliance, the
31 department shall assess on at least an annual basis the
32 accuracy and effectiveness of case processing based on
33 the federal and state requirements in effect for the time
34 period being reviewed, using a statistically valid sample
35 of cases. The information for the assessment shall be based
36 on reviews conducted by either state or county staff, as
37 determined by the department.

38 (A) Counties determined not to be in compliance shall
39 be required to develop and submit a corrective action
40 plan to the department.

(B) Counties under a corrective action plan shall be assessed on a quarterly basis until the department determines that they are in compliance with federal and state child support program requirements.

(3) In addition to determining Tier I compliance, the department shall collect information regarding whether cases on behalf of families receiving Aid to Families with Dependent Children are disproportionately represented in the portion of each county's case sample which is not in compliance. In the event disproportionate representation is found in a county's pool of noncompliant cases, the department shall require corrective action from that county. However, this corrective action shall not affect the county's entitlement to Tier I incentives.

(4) The second level (referred to in this article as Tier II), shall provide an additional incentive rate (referred to in this article as the performance rate), to counties that meet the performance standard levels as established by the department. No county shall qualify for payment of Tier II incentives in any year, month, or quarter in which it was not also eligible for the Tier I compliance rate.

(c) (1) The incentive rates shall be paid as a percentage of total distributed collections.

(2) "Distributed collections" means collections used to reduce or repay aid which is paid pursuant to this chapter; collections paid to an aided family; collections paid to a nonaided family regardless of the date of collection; collections paid to other state child support agencies on behalf of children residing in other states; and any other payments collected which qualify for federal incentives.

(d) Effective January 1, 1992, incentive payments shall be paid to the appropriate county jurisdiction as determined by the department.

(e) Nothing in this section shall preclude the department from adopting regulations pursuant to Section 11479.5.

(f) This section shall become inoperative on June 30, 1998, and as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before

1 January 1, 1999, deletes or extends the dates on which it
2 becomes inoperative and is repealed.

3 SEC. 40. Section 15200.85 of the Welfare and
4 Institutions Code is amended to read:

5 15200.85. (a) Effective January 1, 1992, there shall be
6 appropriated from the State Treasury sufficient funds,
7 including federal incentives, from which the department
8 shall pay to each county a base rate of 10 percent on any
9 support collections distributed, regardless of the date of
10 collection. The base incentive rate shall decrease by 1
11 percent annually each July 1, until July 1, 1995, at which
12 time it shall be 6 percent for that fiscal year and every
13 fiscal year thereafter.

14 (b) Effective January 1, 1992, the department shall pay
15 to each county that is determined by the department to
16 meet all requirements of Tier I, as described in paragraph
17 (1) of subdivision (b) of Section 15200.8, a compliance
18 incentive rate of 1 percent on any support collections
19 distributed. This compliance rate shall increase by 1
20 percent annually each July 1, until July 1, 1995, at which
21 time it shall be 5 percent for that fiscal year and every
22 fiscal year thereafter.

23 (c) Counties which complete their corrective action
24 plans pursuant to subparagraph (B) of paragraph (1) of
25 subdivision (b) of Section 15200.8, shall qualify for the
26 compliance rate incentive at the start of the quarter
27 following completion.

28 (d) This section shall become inoperative on June 30,
29 1998, and as of January 1, 1999, is repealed, unless a later
30 enacted statute, which becomes effective on or before
31 January 1, 1999, deletes or extends the dates on which it
32 becomes inoperative and is repealed.

33 SEC. 41. Section 15200.9 of the Welfare and
34 Institutions Code is amended to read:

35 15200.9. (a) Effective July 1, 1993, there shall be
36 appropriated from the State Treasury sufficient funds,
37 including federal incentives, from which the department
38 shall pay a performance rate to those counties which
39 meet Tier II performance standards, pursuant to
40 paragraph (2) of subdivision (b) of Section 15200.8. The

1 performance rate shall be paid in addition to that
2 provided for under Section 15200.85 and shall be paid on
3 distributed collections, regardless of the date of
4 collection.

5 (b) The performance rate shall be a graduated scale
6 up to a maximum rate of 1 percent. The maximum
7 performance rate shall increase by 1 percent annually
8 until July 1, 1995, at which time it shall be 3 percent for
9 that fiscal year and every fiscal year thereafter.

10 (c) This section shall become inoperative on June 30,
11 1998, and as of January 1, 1999, is repealed, unless a later
12 enacted statute, which becomes effective on or before
13 January 1, 1999, deletes or extends the dates on which it
14 becomes inoperative and is repealed.

15 SEC. 42. Section 15200.91 is added to the Welfare and
16 Institutions Code, to read:

17 15200.91. The Legislative Analyst's office shall
18 conduct a study of the effectiveness, efficiency, and
19 integrity of the child support performance review and
20 corrective action processes described in Sections 15200.8
21 to 15200.9, inclusive, the department's regulations, and
22 the operation of these processes at the state and county
23 level and shall report its findings and recommendations
24 for improvement, as appropriate, to the Legislature by
25 March 1, 1997. The study shall be designed by the
26 Legislative Analyst's office in consultation with the
27 department, the State Library Research Bureau, a child
28 support advocate group, and the California Family
29 Support Council.

30 SEC. 43. Section 15200.95 of the Welfare and
31 Institutions Code, as amended by Section 10 of Chapter
32 481 of the Statutes of 1995, is amended to read:

33 15200.95. (a) Each county shall be responsible for its
34 nonfederal share of administrative expenditures for
35 administering the child support program.

36 (b) Notwithstanding subdivision (a), effective July 1,
37 1991, to June 30, 1992, inclusive, counties shall pay the
38 nonfederal share of the administrative costs of
39 conducting the reviews required under Section 15200.8
40 from the savings counties will obtain as a result of the

1 reduction in the maximum aid payments specified in
2 Section 11450. Effective July 1, 1992, to June 30, 1993,
3 inclusive, the state shall pay the nonfederal share of
4 administrative costs of conducting the reviews required
5 under Section 15200.8. Funding for county costs after
6 June 30, 1993, shall be subject to the availability of funds
7 in the annual Budget Act.

8 (c) In the event that the federal government does not
9 provide the funding for federal financial participation in
10 administrative costs of the child support program at the
11 scheduled rates of 66 percent for regular federal financial
12 participation and 90 percent for enhanced federal
13 financial participation, the department shall increase the
14 Tier I base incentive rate authorized under Section
15 15200.85 to supplant the dollar reduction to federal
16 financial participation.

17 (1) This increase shall be based on the difference
18 between the estimated dollar reimbursement resulting
19 from the scheduled federal financial participation and
20 the estimated dollar reimbursement resulting from the
21 reduced federal financial participation rates. This
22 increase to the base incentive rate, when applied to
23 estimated total collections for the state fiscal year, shall
24 approximately equal the federal reduction.

25 (2) This increase shall be determined annually, and
26 shall apply to total distributed collections as defined in
27 subdivision (c) of Section 15200.8.

28 (3) In no event shall the increased incentive rate
29 exceed 4 percent in any fiscal year.

30 (4) This increase to the base incentive rate shall apply
31 to the period of time in which the federal financial
32 participation rate in administrative expenditures is
33 reduced.

34 (d) This section shall become inoperative on June 30,
35 1998, and as of January 1, 1999, is repealed, unless a later
36 enacted statute, which becomes effective on or before
37 January 1, 1999, deletes or extends the dates on which it
38 becomes inoperative and is repealed.

1 SEC. 44. Section 15200.95 of the Welfare and
2 Institutions Code, as added by Section 11 of Chapter 481
3 of the Statutes of 1995, is amended to read:

4 15200.95. (a) Each county shall be responsible for its
5 nonfederal share of administrative expenditures for
6 administering the child support program.

7 (b) In the event that the federal government does not
8 provide the funding for federal financial participation in
9 scheduled rates of 66 percent for regular federal financial
10 participation and 90 percent for enhanced federal
11 financial participation, the department shall increase the
12 incentive rates authorized under Sections 15200.1,
13 15200.2, and 15200.3 to supplant the dollar reduction to
14 federal financial participation.

15 (1) This increase shall be based on the difference
16 between the estimated dollar reimbursement resulting
17 from the scheduled federal financial participation and
18 the estimated dollar reimbursement resulting from the
19 reduced federal financial participation rates. This
20 increase to the base incentive rate, when applied to
21 estimated total collections for the state fiscal year, shall
22 approximately equal the federal reduction.

23 (2) This increase shall be determined annually, and
24 shall apply to total distributed collections as defined in
25 Section 15200.1.

26 (3) In no event shall this increase to the incentive rate
27 exceed 4 percent in any fiscal year.

28 (4) This increase to the incentive rate shall apply to
29 the period of time in which the federal financial
30 participation rate in administrative expenditures is
31 reduced.

32 (c) This section shall become operative on July 1, 1998.

33 ~~SEC. 45. No reimbursement is required by this act~~
34 ~~pursuant to Section 6 of Article XIII B of the California~~
35 ~~Constitution for certain costs that may be incurred by a~~
36 ~~local agency or school district because in that regard this~~
37 ~~act creates a new crime or infraction, eliminates a crime~~
38 ~~or infraction, or changes the penalty for a crime or~~
39 ~~infraction, within the meaning of Section 17556 of the~~
40 ~~Government Code, or changes the definition of a crime~~

1 ~~within the meaning of Section 6 of Article XIII B of the~~
2 ~~California Constitution.~~

3 ~~However, notwithstanding Section 17610 of the~~
4 ~~Government Code, if the Commission on State Mandates~~
5 ~~determines that this act contains other costs mandated by~~
6 ~~the state, reimbursement to local agencies and school~~
7 ~~districts for those costs shall be made pursuant to Part 7~~
8 ~~(commencing with Section 17500) of Division 4 of Title~~
9 ~~2 of the Government Code. If the statewide cost of the~~
10 ~~claim for reimbursement does not exceed one million~~
11 ~~dollars (\$1,000,000), reimbursement shall be made from~~
12 ~~the State Mandates Claims Fund.~~

13 ~~Notwithstanding Section 17580 of the Government~~
14 ~~Code, unless otherwise specified, the provisions of this act~~
15 ~~shall become operative on the same date that the act~~
16 ~~takes effect pursuant to the California Constitution.~~

17 *SEC. 45. Notwithstanding Section 17610 of the*
18 *Government Code, if the Commission on State Mandates*
19 *determines that this act contains costs mandated by the*
20 *state, reimbursement to local agencies and school*
21 *districts for those costs shall be made pursuant to Part 7*
22 *(commencing with Section 17500) of Division 4 of Title*
23 *2 of the Government Code. If the statewide cost of the*
24 *claim for reimbursement does not exceed one million*
25 *dollars (\$1,000,000), reimbursement shall be made from*
26 *the State Mandates Claims Fund.*

27 *Notwithstanding Section 17580 of the Government*
28 *Code, unless otherwise specified, the provisions of this act*
29 *shall become operative on the same date that the act*
30 *takes effect pursuant to the California Constitution.*